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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,644	01/06/2001	Alfred D. Roeske		4900

23535 7590 08/16/2002

MEDLEN & CARROLL, LLP  
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EXAMINER

TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
1714	9

DATE MAILED: 08/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

T.P

# Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

☒ Responsive to communication(s) filed on 5/8/02

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

☒ Claim(s) 1-26 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-26 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some\* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_

☐ Copies of the certified copies of the priority documents have been received  
in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 6

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other \_\_\_\_\_

Office Action Summary

### DETAILED ACTION

This Office action is in response to the amendment filed May 08, 2002 in which claims 1, 4, 5, 9, 10, 13, 16, 18, 19, 24, 25 and 26 were amended.

The objection to the specification is withdrawn in view of the amendment o the claims.

The rejection of the claims under USC 112, second paragraph is withdrawn in view of the amendment to the claims and applicant's comments.

The 103 rejections of the claims over McLaren and Will are withdrawn in view of Applicants arguments.

Claims 1-26 are rejected under 35 USC 103 (a) as being unpatentable over Tao for the reasons of record.

Applicant argues that Tao is more concerned with producing a candle that is solid at room temperature then he is with whether the triglyceride is hydrogenated. Applicant argues that Tao teaches away from the present invention because he teaches that the "free fatty acids and fatty acid components of the triglycerides may be unsaturated." Tao clearly teaches that the triglycerides of his invention may be fully hydrogenated. A fully hydrogenated triglyceride has an Iodine Value of zero. This clearly meets the limitations of the claims regarding the hydrogenated triglycerides.

Regarding the formation of soot, it would be reasonable to expect that the candle composition of Tao meets this limitation since Tao teaches a composition wherein the amounts of triglyceride and paraffin may be varied to obtain the type of candle desired by patentee.

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The examiner recognizes that Tao teaches that the unsaturated fatty material may be used in his invention; however, in no way is Tao limited to such compounds. This is especially true since Tao teaches that he prefers that the chains of the triglycerides are saturated.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 703-308-2509. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9310 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to read 'Cephia D. Toomer', with a long horizontal flourish extending to the right.

Cephia D. Toomer  
Primary Examiner  
Art Unit 1714

09755644\9  
August 16, 2002